

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

IN RE: GERBER PRODUCTS COMPANY  
HEAVY METALS BABY  
FOOD LITIGATION

Master File No. 1:21-cv-269 (MSN/JFA)

**CASE MANAGEMENT ORDER NO. 2**

This matter comes before the Court on the parties' Consent Motion Re: Litigation Schedule (Dkt. No. 111). Having reviewed the Motion, the Court hereby ORDERS the following:

**1. Status Conference**

Discovery may begin as of receipt of this Order.

a. Date and Time

The Court will conduct a Status Conference and Rule 16(b) Conference on July 8, 2022 at 11:00 a.m. in Judge Nachmanoff's courtroom, Room 600, United States Courthouse, 401 Courthouse Square, Alexandria, Virginia 22314. Judge Nachmanoff and Magistrate Judge Anderson will jointly preside.

In addition, the Court intends to hold monthly status conferences every second Friday of each month at 1:00 p.m. beginning in the month of August.

b. Agenda for Status Conference

At the Status Conference, the Court intends to discuss scheduling, discovery, and case management issues. The Court will also consider any other issues identified by the parties. In that regard, no later than June 24, 2022, Plaintiffs' Interim Lead Counsel and defendant shall file any other agenda items that the parties want the Court to consider at the Status Conference.

The Status Conference will be followed by a Rule 16(b) Conference conducted by Magistrate Judge Anderson. At the present time, the Court imposes the following limitations on discovery: plaintiffs, collectively, may not exceed ten (10) non-party, non-expert witness

depositions in total per side and may not serve on defendant more than fifty (50) interrogatories, including parts and subparts, in total without leave of court. Similarly, defendant may not exceed ten (10) non-party, non-expert witness depositions and may not serve on plaintiffs, collectively, more than fifty (50) interrogatories, including parts and subparts, without leave of court.

Any party may file a motion with the Court requesting leave to exceed the number of witness depositions or interrogatories upon a showing of good cause by June 21, 2022. Any opposition to the motion must be filed by June 28, 2022, to be resolved at the Status Conference on July 8, 2022.

## **2. Document Depository**

Plaintiffs' Interim Lead Counsel (or a designated representative) and defendant shall confer about the creation, financing, design, and operation of a document depository program (a "depository") and thereafter shall file a Joint Stipulation with the Court on or before June 24, 2022, outlining a protocol for the depository and its organization, categorization, and/or indexing of defendant's responses to plaintiffs' document requests and a formula for sharing the cost of maintaining the depository facility.

In developing this protocol, the parties shall consider potential protocols that would efficiently use technologies, facilitate the parties' prompt and effective access to the contents of the depository, and reduce a party's need to travel to examine documents. The Court will enter such orders, as necessary, for the efficient and proper operation of the depository.

## **3. Litigation Schedule**

Having considered the parties' Consent Motion Re: Litigation Schedule (Dkt. No. 111), the Court hereby sets the following Litigation Schedule:

<b>Event</b>	<b>Date</b>
Motion for Class Certification	September 2, 2022
Opposition to Class Certification	September 30, 2022
Class Certification Reply	October 14, 2022
Class Certification Hearing	October 28, 2022
Close of Fact Discovery	November 30, 2022
Opening Expert Reports	December 30, 2022
Expert Rebuttal Reports	January 30, 2023
Close of Expert Discovery	February 28, 2023
Parties file motions for summary judgment	March 31, 2023

#### **4. Additional Matters**

On June 18, 2021, defendant filed a Motion and Proposed Order regarding case management deadlines and consolidation. (Dkt. No. 43). In response, the Court ordered the Consolidated Actions held in abeyance until resolution of the then-pending District of New Jersey transfer motions. (Dkt. No. 46). On September 13, 2021, the District of New Jersey ruled on the pending transfer motions. (Dkt. No. 49). Accordingly, it is hereby ORDERED that the stay is LIFTED.

\* \* \*

The Clerk is directed to forward copies of this Order to all counsel of record.

/s/

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Hon. Michael S. Nachmanoff  
United States District Judge

June 7, 2022  
Alexandria, Virginia